

HOUSE BILL NO. 196

INTRODUCED BY JAYNE

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT DELINEATING THE FIDUCIARY RESPONSIBILITY OF AN AGENT TO A PRINCIPAL IN THE STATUTORY FORM POWER OF ATTORNEY; ~~REQUIRING~~ ALLOWING FOR AN AGENT'S SIGNATURE; AND AMENDING SECTION 72-31-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 72-31-201, MCA, is amended to read:

"72-31-201. Statutory form of power of attorney. (1) The following statutory form of power of attorney is legally sufficient:

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THIS PART. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I (insert your name and address) appoint (insert the name and address of the person appointed) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

..... (A) real property transactions;

..... (B) tangible personal property transactions;

- 1 (C) stock and bond transactions;
- 2 (D) commodity and option transactions;
- 3 (E) banking and other financial institution transactions;
- 4 (F) business operating transactions;
- 5 (G) insurance and annuity transactions;
- 6 (H) estate, trust, and other beneficiary transactions;
- 7 (I) claims and litigation;
- 8 (J) personal and family maintenance;
- 9 (K) benefits from social security, medicare, medicaid, or other governmental programs or from military
- 10 service;
- 11 (L) retirement plan transactions;
- 12 (M) tax matters;
- 13 (N) ALL OF THE POWERS LISTED ABOVE. YOU NEED NOT INITIAL ANY OTHER LINES IF YOU
- 14 INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES, YOU MAY GIVE SPECIAL
INSTRUCTIONS LIMITING OR EXTENDING
THE POWERS GRANTED TO YOUR AGENT.

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26 UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY

27 AND WILL CONTINUE UNTIL IT IS REVOKED.

28 This power of attorney revokes all previous powers of attorney signed by me.

29 STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO REVOKE

30 ALL PREVIOUS POWERS OF ATTORNEY SIGNED BY YOU.

1 IF YOU DO WANT THIS POWER OF ATTORNEY TO REVOKE ALL PREVIOUS POWERS OF ATTORNEY
2 SIGNED BY YOU, YOU SHOULD READ THOSE POWERS OF ATTORNEY AND SATISFY THEIR
3 PROVISIONS CONCERNING REVOCATION. THIRD PARTIES WHO RECEIVED COPIES OF THOSE
4 POWERS OF ATTORNEY SHOULD BE NOTIFIED.

5 This power of attorney will continue to be effective if I become disabled, incapacitated, or incompetent.

6 STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE
7 IF YOU BECOME DISABLED, INCAPACITATED, OR INCOMPETENT.

8 If it becomes necessary to appoint a conservator of my estate or guardian of my person, I nominate my agent.

9 STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT TO NOMINATE YOUR AGENT AS
10 CONSERVATOR OR GUARDIAN.

11 If any agent named by me dies, becomes incompetent, resigns or refuses to accept the office of agent, I name
12 the following (each to act alone and successively, in the order named) as successor(s) to the agent:

13 1.

14 2.

15 3.

16 For purposes of this subsection, a person is considered to be incompetent if and while: (1) the person is a minor;
17 (2) the person is an adjudicated incompetent or disabled person; (3) a conservator has been appointed to act
18 for the person; (4) a guardian has been appointed to act for the person; or (5) the person is unable to give
19 prompt and intelligent consideration to business matters as certified by a licensed physician.

20 I agree that any third party who receives a copy of this document may act under it. I may revoke this power of
21 attorney by a written document that expressly indicates my intent to revoke. Revocation of the power of attorney
22 is not effective as to a third party until the third party learns of the revocation. I agree to indemnify the third party
23 for any claims that arise against the third party because of reliance on this power of attorney.

24 Signed this day of, 20...

25

26 (Your Signature)

27

28 ~~(Your Social Security Number)~~

29 State of

30 (County) of

1 This document was acknowledged before me on

2

3 (Date) by

4

5 (Name of Principal)

6

7 (Signature of Notarial Officer)

8

9 (Seal, if any) (Title (and Rank))

10 [My commission expires:.....]

11 BY SIGNING, ACCEPTING, OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES I ASSUME
 12 THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT. ‡
 13 UNDERSTAND THAT THE AGENT WORKS EXCLUSIVELY FOR THE BENEFIT OF THE PRINCIPAL. THE
 14 FOREMOST DUTY AS THE AGENT IS THAT OF LOYALTY TO AND PROTECTION OF THE BEST
 15 INTERESTS OF THE PRINCIPAL. AS THE AGENT, I WILL THE AGENT SHALL DIRECT ANY BENEFITS
 16 DERIVED FROM THE POWER OF ATTORNEY TO THE PRINCIPAL. HAVE THE AGENT HAS A DUTY TO
 17 AVOID CONFLICTS OF INTEREST AND TO USE ORDINARY SKILL AND PRUDENCE IN THE EXERCISE
 18 OF THESE DUTIES.

19

20 ~~(Name)~~ (SIGNATURE of Agent)

21 Signed this day of, 20...

22 (2) A statutory power of attorney is legally sufficient under this part if the wording of the form
 23 substantially complies with subsection (1), the form is properly completed, and the signature of the principal is
 24 acknowledged. THE AGENT'S SIGNATURE IS NOT NECESSARY IF THE AGENT ACCEPTS OR ACTS UNDER THE APPOINTMENT.

25 (3) If the line in front of (N) of the form under subsection (1) is initialed, an initial on the line in front of
 26 any other power does not limit the powers granted by line (N)."

27 - END -